

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 289 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

COMMISSIONER OF INCOME TAX

Versus

BHIKHAMAL CHHOTALAL

Appearance:

1. INCOME TAX REFERENCE No. 289 of 1995
MR MANISH R BHATT for Petitioner No. 1
SERVED BY RPAD - (N) for Respondent No. 1
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CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 16/01/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

In this reference at the instance of the Revenue,
the following question is referred for our opinion, in
respect of the assessment year 1986-87:

"Whether, the appellate Tribunal is right in law
and on facts in directing the Assessing Officer
to allow relief under section 80HH and 80I to the
assessee considering the shipbreaking business of
the assessee as a manufacturing activity?"

2. We have heard Mr. M.R. Bhatt, learned Standing
Counsel for the revenue. Though served, none appeared on
behalf of the respondent - assessee.

3. Our attention is drawn to the decision of another
Division Bench of this Court in Commissioner of
Income-Tax v. Vijay Ship Breaking Corporation, 2003
(261) ITR 113, taking the view that ship breaking
activity was not an activity of manufacture or production
of any article or thing for the purposes of availing of
the benefit of deductions under sections 80HH and 80-I of
the Income-Tax Act, 1961. Since the issue raised in the
present reference is already decided by this Court
against the assessee, we answer the question in the
negative i.e., in favour of the Revenue and against the
assessee.

4. The reference accordingly stands disposed of.

(M.S. Shah, J.)

(A.M. Kapadia, J.)

(karan)